MONTANA LEGISLATIVE HISTORY

Chapter 625 1993

Bill H 92 S _____ Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	1/12	C	Hearing Date(s)	3/18	C
	1/27	C		4/12	C
		C			C
		C			C
Date Out		C	H. Conference Committee 4/22		
			S Conference Committee 4/21-22		

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

The Law Library has no minutes for either Conference Committee; only a conference committee report 4-20

2/02	2ND READING CONCURRED	47	0
2/03	3RD READING CONCURRED	47	0
	RETURNED TO HOUSE		
2/09	SIGNED BY SPEAKER		
2/09	SIGNED BY PRESIDENT		
2/10	TRANSMITTED TO GOVERNOR		
2/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 36		
	EFFECTIVE DATE: 10/01/93		

HB 89 INTRODUCED BY PECK

FORBID SPORTS POOLS AND SPORTS TABS ON ELEMENTARY AND HIGH SCHOOL SPORTS EVENTS

12/29	INTRODUCED
12/30	REFERRED TO EDUCATION & CULTURAL RESOURCES
1/04	FIRST READING
1/11	HEARING
1/13	TABLED IN COMMITTEE

HB 90 INTRODUCED BY FISHER

ALLOW USE OF SERIOUS FORCE TO PREVENT CERTAIN SEX OFFENSES

12/29	INTRODUCED
12/30	REFERRED TO JUDICIARY
1/04	FIRST READING
1/07	HEARING
1/08	TABLED IN COMMITTEE

HB 91 INTRODUCED BY J. JOHNSON

ALLOW DISTRICTS TO APPLY REAPPROPRIATED GENERAL FUND BUDGET AMOUNT

12/29	INTRODUCED
12/30	REFERRED TO EDUCATION & CULTURAL RESOURCES
1/04	FIRST READING
1/04	FISCAL NOTE REQUESTED
1/08	FISCAL NOTE RECEIVED
1/09	FISCAL NOTE PRINTED
1/15	HEARING
1/22	TABLED IN COMMITTEE

HB 92 INTRODUCED BY TUNBY

AMEND STATE-TRIBAL COOPERATIVE AGREEMENTS ACT SPECIFICALLY FOR TAXATION

BY REQUEST OF INDIAN AFFAIRS COMMITTEE AND REVENUE OVERSIGHT COMMITTEE

12/31	INTRODUCED
1/04	FIRST READING
1/04	REFERRED TO TAXATION
1/12	HEARING
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED
1/30	FISCAL NOTE REQUESTED
2/03	FISCAL NOTE RECEIVED

	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO TAXATION		
3/18	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/13	2ND READING CONCURRED	48	1
4/14	3RD READING CONCURRED	47	2
	RETURNED TO HOUSE WITH AMENDMENTS		
4/15	2ND READING AMENDMENTS NOT CONCURRED	95	4
4/15	CONFERENCE COMMITTEE APPOINTED		
4/21	CONFERENCE COMMITTEE REPORT NO. 1		
4/22	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	82	14
4/22	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	86	14
	SENATE		
4/19	CONFERENCE COMMITTEE APPOINTED		
4/21	CONFERENCE COMMITTEE REPORT NO. 1		
4/21	2ND READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	4
4/22	3RD READING CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	3
4/28	SIGNED BY SPEAKER		
4/28	SIGNED BY PRESIDENT		
4/29	TRANSMITTED TO GOVERNOR		
5/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 625		
	EFFECTIVE DATE: 07/01/93		

HB 93 INTRODUCED BY EWER

STATUTORILY APPROPRIATE CERTAIN TREASURY FUNDS

BY REQUEST OF DEPARTMENT OF ADMINISTRATION

12/31	INTRODUCED		
1/04	FIRST READING		
1/04	REFERRED TO STATE ADMINISTRATION		
1/04	FISCAL NOTE REQUESTED		
1/08	FISCAL NOTE RECEIVED		
1/09	FISCAL NOTE PRINTED		
1/12	HEARING		
1/13	COMMITTEE REPORT—BILL PASSED		
1/16	2ND READING PASSED	97	0
1/18	3RD READING PASSED	99	0
	TRANSMITTED TO SENATE		
1/20	FIRST READING		
1/20	REFERRED TO FINANCE & CLAIMS		
2/02	HEARING		
3/01	COMMITTEE REPORT—BILL CONCURRED		
3/02	2ND READING CONCURRED	49	0
3/03	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
3/10	SIGNED BY SPEAKER		
3/12	SIGNED BY PRESIDENT		

HOUSE BILL NO. 92

INTRODUCED BY TUNBY
BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND
THE REVENUE OVERSIGHT COMMITTEE

IN THE HOUSE

DECEMBER 31, 1992	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
JANUARY 4, 1993	FIRST READING.
JANUARY 28, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 29, 1993	PRINTING REPORT.
JANUARY 30, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 11, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY.
FEBRUARY 12, 1993	SECOND READING, DO PASS.
FEBRUARY 13, 1993	ENGROSSING REPORT.
FEBRUARY 15, 1993	THIRD READING, PASSED. AYES, 68; NOES, 31.
FEBRUARY 16, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 20, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
APRIL 12, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
APRIL 13, 1993	SECOND READING, CONCURRED IN.
APRIL 14, 1993	THIRD READING, CONCURRED IN. AYES, 47; NOES, 2.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1993 — SECOND READING, AMENDMENTS NOT CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 19, 1993 — ON MOTION, CONFERENCE COMMITTEE REQUESTED AND APPOINTED.

APRIL 22, 1993 — CONFERENCE COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 22, 1993 — SECOND READING, CONFERENCE COMMITTEE REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE REPORT ADOPTED.

APRIL 23, 1993 — SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 92

INTRODUCED BY TUNBY

BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND

THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE STATE-TRIBAL COOPERATIVE AGREEMENTS ACT INCLUDES AUTHORIZATION TO ASSESS AND COLLECT OR REFUND A TAX OR LICENSE OR PERMIT FEE; ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION UNDER A STATE-TRIBAL TAX AGREEMENT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-70-234, 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Legislature finds it necessary to clarify provisions of the State-Tribal Cooperative Agreements Act in order to reduce the delays in implementing taxation agreements entered into between the State of Montana and Montana Indian Tribes; and

WHEREAS, clarifying provisions of the State-Tribal Cooperative Agreements Act will also reduce the need for duplicative language, which results in increased costs associated with publication of the Montana Code Annotated; and

WHEREAS, the Supreme Court, in Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 111 S. Ct. 905 (1991), stated, among alternatives, that the state and a tribe may adopt a "mutually satisfactory regime" for collection of a tax but did not mandate that a state collect the tax; and

WHEREAS, in an effort to promote a government-to-government relationship between the State of Montana and Montana Indian Tribes and in recognition that both the state and tribal governments must be trusted to act responsibly, it is appropriate that the party designated to collect taxes on an Indian reservation pursuant to any agreement be subject to negotiation.

THEREFORE, the Legislature of the State of Montana finds it appropriate to amend the State-Tribal Cooperative Agreements Act to specifically include tax assessment and collection or refund and to establish specific requirements for tax assessment and collection or refund by the state, a public agency, or a Montana Indian Tribe.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** **Purpose.** (1) It is the intent of the legislature that this part be used to promote cooperation between the state or a public agency and a sovereign tribal government in mutually beneficial activities and services.

(2) It is the goal of the legislature to prevent the possibility of dual taxation by governments while promoting state, local, and tribal economic development.

Section 2. Section 18-11-103, MCA, is amended to read:

"**18-11-103. Authorization to enter agreement -- general contents.** (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to:

(a) perform any administrative service, activity, or undertaking that ~~any of the~~ a public ~~agencies~~ agency or a tribal ~~governments~~ government entering into the contract is authorized by law to perform~~,~~; and

(b) assess and collect or refund any tax or license or permit fee lawfully imposed by the state or a public agency and a tribal government and to share or refund the revenue from the assessment and collection.

(2) The agreement ~~shall~~ must be authorized and approved by the governing body of each party to the agreement. If a state agency is a party to an agreement, the director of the agency is the governing body.

~~(2)~~(3) The agreement ~~shall~~ must set forth fully the powers, rights, obligations, and responsibilities of the parties to the agreement."

Section 3. Section 18-11-104, MCA, is amended to read:

"**18-11-104. Detailed contents of agreement.** (1) The agreement authorized by 18-11-103 ~~shall~~ must specify the

following:

~~(1)~~(a) its duration;

~~(2)~~(b) the precise organization, composition, and nature of any separate legal entity created ~~thereby~~ by the agreement;

~~(3)~~(c) the purpose of the agreement;

~~(4)~~(d) the manner of financing the agreement and establishing and maintaining a budget ~~therefor~~ for the agreement;

~~(5)~~(e) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon ~~such~~ partial or complete termination;

~~(6)~~(f) provision for administering the agreement, which may include creation of a joint board responsible for ~~such~~ administration;

~~(7)~~(g) the manner of acquiring, holding, and disposing of real and personal property used in the agreement; and

(h) other necessary and proper matters.

~~(8)~~(2) ~~when~~ If an agreement involves law enforcement, it must also include:

(a) the minimum training standards and qualifications of law enforcement personnel;

(b) the respective liability of each public agency and tribal government for the actions of law enforcement

officers when acting under the provisions of an agreement;

(c) the minimum insurance required of both the public agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement;~~--and~~.

(3) If an agreement involves the assessment and collection or refund of a similar tax or license or permit fee by the state or a public agency and a tribal government, it must also include:

(a) the procedure for determining the amount of revenue to be shared by the state or a public agency and the tribal government;

(b) the administrative procedures for collection of the shared revenue;

(c) the minimum insurance or bonding required by the state or a public agency or the tribal government;

(d) a statement specifying the administrative expenses to be deducted pursuant to [section 4] by the collector of the tax or license or permit fee;

(e) a statement that the state or a public agency or the tribal government collecting the tax or license or permit fee is subject to an audit report by a mutually agreed upon auditor of the revenue collected and administrative expenses;

(f) a statement that the state or a public agency and the tribal government will cooperate to collect only one tax and will share or refund the revenue as specified in the agreement;

(g) a statement that a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established in the agreement; and

(h) a statement that the parties to the agreement are not forfeiting any legal rights to apply their respective taxes by entering into an agreement, except as specifically set forth in the agreement

~~(9)--any-other-necessary-and-proper-matters.~~"

NEW SECTION. **Section 4.** **Revenue account -- administrative account -- distribution of revenue.** (1) The revenue collected by the state, a public agency, or a tribal government under a state-tribal cooperative agreement and the administrative expenses deducted under subsection (2) from the total revenue collected must be deposited in separate special revenue accounts.

(2) The administrative expenses deducted by the state, a public agency, or a tribal government for collection of revenue may not exceed the actual cost of collecting the revenue on a reservation or 5%, whichever is less. Money from an administrative account may be expended only for the

purpose of administering the tax or fee imposed under the state-tribal cooperative agreement or for paying the costs incurred in terminating the agreement.

(3) Except for the administrative expenses amount deducted under subsection (2), the revenue collected under a state-tribal agreement must be deposited in a state special revenue account or a separate tribal account and must be disbursed as provided for in the agreement.

(4) Money deposited in a state administrative expenses account and in a state special revenue account is statutorily appropriated, as provided in 17-7-502, to the department or public agency that is a party to a state-tribal cooperative agreement under 18-11-103, for the purpose of paying administrative expenses or paying to a tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected or refunded pursuant to a state-tribal cooperative agreement, each party must receive its share as provided in the agreement, notwithstanding any contrary state statutory or tribal ordinance distribution formula. For distribution of the remainder, the state statutory or tribal distribution formula must apply as if the amount remaining after each party to the agreement receives its share were the total revenue collected from the tax or license or permit fee.

Section 5. Section 15-70-234, MCA, is amended to read:

"15-70-234. Cooperative agreement -- ~~allocation--of motor fuels taxes to tribal governments.~~ ~~(1)~~ In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters. The department of transportation shall report the status of cooperative agreement negotiations to each meeting of the revenue oversight committee. After negotiations are complete, ~~the agreement must be presented to the revenue oversight committee for review and comment before~~ the final agreement ~~is~~ must be submitted to the attorney general for approval pursuant to 18-11-105. ~~The agreement must provide that under conditions specified in this section, the state and the tribe will cooperate to collect only one tax that is at the same level as the tax outside the boundaries of the reservation and will share the revenue as provided in this section. The agreement must provide that the state and the tribe are not forfeiting any legal rights to apply their respective taxes by entering into an agreement, except as specifically set forth in the agreement.~~

~~(2)--The-agreement-may-provide-that-the-distributor--may not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax but--shall--pay-only-one-tax-to-the-state-in-an-amount-equal to-the-tax-paid-on-gasoline-that-is-not-subject-to-a--tribal tax.~~

~~(3)--The--agreement--may--provide--that--after-deducting administrative-expenses-equal-to-5%-of-the-amount-determined under-subsection-(2)-and-the-amounts-necessary-for--refunds, the--department--of--transportation--shall,--on--a-quarterly basis,--distribute--the--remaining--amount--to--the---tribal government.~~

~~(4)--The--agreement-may-provide-for-the-collection,-use, and-distribution-of-the-tax.~~"

Section 6. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory

appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state

treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

NEW SECTION. **Section 7.** **Codification instruction.** [Sections 1 and 4] are intended to be codified as an integral part of Title 18, chapter 11, part 1, and the provisions of Title 18, chapter 11, part 1, apply to [sections 1 and 4].

NEW SECTION. **Section 8.** **Effective date -- applicability.** [This act] is effective July 1, 1993, and applies to tax agreements entered into on or after July 1, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0092, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:
An act amending the state-tribal cooperative agreements act; clarifying that the act includes authorization to assess and collect or refund a tax or license or permit fee; establishing requirements for tax assessment and collection under a state-tribal tax agreement; requiring a public agency to hold a public meeting prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government; providing a statutory appropriation; and providing an effective date and an applicability date.

FISCAL IMPACT:

The impact of this proposal on expenditures of the Departments of Revenue; Fish, Wildlife and Parks; and Health and Environmental Sciences is minimal.

Due to the numerous variables involved in possible State-Tribal agreements, the impact of the bill on current revenues cannot be determined.

David Lewis 2-3-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Rolph Tunby 2-4-93
ROLPH TUNBY, PRIMARY SPONSOR DATE

Fiscal Note for HB0092, second reading.

HB92

RPT. LCB4 FINAL COMMITTEE REPORT OF REFERRED BILLS RUN TIME 16:01
RUN DATE.... 05/03/93

CHAIRMAN--BOB GILBERT COMMITTEE--HOUSE TAXATION
SECRETARY-JILL ROHYANS
NORMAL SCHEDULE => SITE: ROOM 437 DAYS: M,T,W,T,F TIME: 8:00 A.M.

BILL NO	REFERRED	HEARING	OTHER CONSIDERATION DATES	EXECUTIVE ACTION/DATE/VOTE	REREFERRED	DATE READ
HB0008	GILBERT, BOB 12/30	1/06	CLARIFY TAXATION OF INTERSTATE MOTOR VEHICLE FLEETS	PASS AS AMENDED 1/14 VOTE: 19-0		1/14
HB0017	RICE, SHEILA 1/16		REVISE PETROLEUM AND LIQUEFIED PETROLEUM DEALER LICENSE FEES	PASS AS AMENDED 3/18 VOTE: 16-3		3/20
HB0047	GILBERT, BOB 12/30	1/06	ASSIGN COAL TAX OVERSIGHT DUTIES TO THE REVENUE OVERSIGHT COMMITTEE	DO PASS 1/14 VOTE: 19-0		1/14
HB0070	RICE, SHEILA 1/16		ESTABLISHING WEIGHING DEVICE FEES	PASS AS AMENDED 3/18 VOTE: 16-3		3/20
HB0076	NELSON, THOMAS 12/30	1/05	INDIVIDUAL INCOME TAX DEDUCTION FOR HEALTH INSURANCE PREMIUM PAYMENTS	Died in Committee - No Action		
HB0080	MCCAFFREE, ED 12/30	1/05	COUNTY TO DISTRIBUTE LEASE REVENUE ACROSS MILL LEVY FOR CURRENT YEAR	DO PASS 1/6 VOTE: 20-0		1/06
HB0092	TUNBY, ROLPH 1/04	1/12	AMEND STATE-TRIBAL COOPERATIVE AGREEMENTS ACT SPECIFICALLY FOR TAXATION	PASS AS AMENDED 1/27 VOTE: 11-9		1/28
HB0103	SWANSON, EMILY 1/05	1/12	CLARIFY TAX APPEAL ONLY FROM FINAL DEPARTMENT DECISION	DO PASS 1/14 VOTE: 18-1		1/14
HB0119	HANSON, MARIAN 1/07	1/14	CLARIFY BEER AND WINE TAX DISTRIBUTION	PASS AS AMENDED 1/14 VOTE: 19-0		1/14
HB0149	LARSON, DON 1/12	1/15	ALLOW DEPT OF TRANS TO MAKE INTERSTATE AGREEMENTS ON CERTAIN FUEL TAXES	DO PASS 1/15 VOTE: 20-0		1/16
HB0154	WHALEN, TIM 1/13	1/19	CLARIFY THAT CERTAIN INCOME TAX INFORMATION IS NOT CONFIDENTIAL	ADVERSE RPT ADOPT 2/5 VOTE: 12-8		2/10

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **VICE CHAIRMAN MIKE FOSTER**, on January 12, 1993, at 9:00 a.m.

ROLL CALL

Members Present:

Rep. Mike Foster, Vice Chair (R)
Rep. Dan Harrington, Minority Vice Chair (D)
Rep. Shiell Anderson (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: Rep. Bob Gilbert, Chair (R)
Rep. John Bohlinger (R)

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: HB 92, HB 103
Executive Action: None

HEARING ON HOUSE BILL 92

Opening Statement by Sponsor:

REP. ROLPH TUNBY, Dist. 24, sponsor, said the bill is intended to clarify that the State-Tribal Cooperative Agreements Act includes authorization to assess and collect or refund tax, license, or permit fees and establishes requirements for assessments and collections. Although an Attorney General's ruling indicates that such authorization is included in the Act, the bill establishes it in statute and eliminates duplicative language in the codes. The bill would reduce micro-management by the Legislature because legislative approval would not be needed for each agreement. The bill contains a provision allowing for collection of taxes by the tribe if the state agrees to the collection procedure. Tribal collection can be negotiated between the tribes and the state.

REP. TUNBY presented proposed amendments which would establish a public hearing procedure for taxation, gambling, environmental, and fish and game agreements (Exhibit #1). He noted the Attorney General's Office will submit proposed amendments which will encompass those in Exhibit #1 in a condensed and simplified version.

Informational Testimony:

Deanne Sandholm, Assistant Attorney General, said the amendments as presented by **REP. TUNBY** (Exhibit #1) are intended to provide an opportunity for public testimony on the various agreements as they are proposed. The concern of the Attorney General is the formality of the language of the amendment regarding public hearings and findings of fact. It is not clear what would be expected of a given negotiation team in the hearing process. The Attorney General's Office will submit a simplified amendment which would require a public meeting on or near the reservation for the purpose of receiving comments and providing information to the public with respect to the effect the proposed agreements would have on the community. The amendments will take out some of the terms of art that are normally used in formal legal proceedings (amendments were prepared and distributed at the end of the meeting - attached as Exhibit #2).

Proponents' Testimony:

SEN. DEL GAGE, Dist. 5, said the bill was requested by the Indian Affairs and Revenue Oversight Committees. Tribal governments implement tax measures within their own boundaries to support their governments. Provisions of the bill would help avoid double taxation. It is less costly than going to court and also provides that agreements would not have to be approved by the Legislature. The Blackfoot Tribe has proposed the tribe collect

the taxes and send the state its share. The bill has provisions which would establish separate accounts for the tax revenues and provide limits on administrative costs in such cases.

Doug Abelin, Independent Producers, expressed support for the bill based on the clarification of double taxation provisions.

Bob Lane, Chief Counsel, Fish, Wildlife and Parks (FWP), said FWP supports the proposed amendments as they will be clarified by the Attorney General. The amendments, as presented (Exhibit #1), are for a very formal legal hearing process. He said the Attorney General's amendments would specify an informal hearing approach which is more workable and will relieve some potential negotiating roadblocks.

Opponents' Testimony: There were no opponents.

Questions From Committee Members and Responses:

REP. REAM expressed concern that the amendments, specifically the environmental, gambling, and fish and game agreements, were beyond the title and scope of the bill.

Deanne Sandholm said her understanding of the placement of the amendment would be to amend 18-11-103, the general information section of the State-Tribal Cooperative Agreements Act. The negotiations for taxation, environmental, gambling and fish and game agreements are authorized in that section and these amendments would simply allow for a hearing procedure. She did not feel separate legislation would be required.

REP. DRISCOLL said he thought the Governor should be the final authority and sign the agreements. He noted the bill states that the directors of the specific departments would sign the agreements.

Deanne Sandholm replied the State-Tribal Cooperative Agreements Act does not require the Governor's approval. Any agency can, by law, enter into an agreement.

SEN. GAGE said he had asked the same question and was told that the Directors would apprise the Governor of any agreements prior to signing. He noted the water rights compact had been negotiated and agreed upon. It then went to the Governor and Attorney General for review, at which time it was rejected. The tribes were very upset that the extensive negotiating that had been done was summarily dismissed and, as a result, pulled out of further negotiations until it was determined just who they were negotiating with. **SEN. GAGE** said this is not an insignificant feature of the bill. He said he would prefer the Governor or

Attorney General be authorized to sign the agreements, but the rationale for the Director's signature stems from the water compact problems.

REP. FELAND said there are a number of taxes, local government severance taxes, county taxes, etc., which are assessed. He asked if these taxes are all going to be collected and by whom.

SEN. GAGE replied that all the taxes would part of the negotiated agreement between the tribes and the state. His hope is that just one encompassing tax would be collected and the distributions made accordingly. He emphasized this would be subject to negotiation.

REP. ELLIOTT said he was confused and concerned about the proposed amendments and wondered if they were really necessary.

REP. TUNBY replied the amendments were proposed by Speaker Mercer because there are times when tribal councils do not represent individual Indians as much as they should. The hearing provision would allow all the people on the reservations to have input to any proposed agreement.

REP. ELLIOTT said he had no problem with the public hearing provision for tax agreements, but he was concerned with the inclusion of gambling, environmental, and fish and game agreements. He said he felt those areas were outside the purview of the Taxation Committee.

REP. TUNBY said he believed **CHAIRMAN GILBERT** had requested the environmental agreements and other input was received from various groups, including the Attorney General.

REP. ELLIOTT asked that a representative of the Attorney General's office be present at Executive Session when this bill is considered.

REP. McCAFFREE referred to page 6, section 4, and page 7, dispersal of revenue. He asked why local governments were not included in those sections.

SEN. GAGE said that might be a problem that should be addressed.

REP. REAM asked Lee Heiman to request an opinion from Greg Petesch, Legislative Council, as to whether the amendments can be included in the bill since they address Section 103 and the bill deals with Section 104.

LEE HEIMAN said the title of the bill itself does not limit the effect of the bill. The title can be changed extensively as long as the effect of the bill is not reversed. He said he would have Mr. Petesch review the proposed amendments.

REP. HANSON said language requiring review of the agreements by the Revenue Oversight Committee has been stricken on page 8 of the bill. She asked if there is any overview of the agreements after they are signed before the legislative session.

REP. FOSTER asked Lee Heiman to research that issue.

Closing by Sponsor:

REP. TUNBY said the purpose of cooperative agreements is to prevent litigation. Cooperative agreements have already been signed with four different tribes regarding cigarette taxes, alcohol taxes, and motor fuel taxes. Those agreements are working well. He said the bill would streamline and improve the agreement process and relieve the legislature of micro-management responsibilities. He told the members the amendments would be worked out and presented at Executive Session.

HEARING ON HOUSE BILL 103

Opening Statement by Sponsor:

REP. SWANSON, Dist. 79, sponsor, said this bill simply clarifies that only final decisions of the Department of Revenue are appealable to the State Tax Appeal Board (STAB).

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, Department of Revenue (DOR), said a bill was passed in the last session which clarified the tax appeal procedures of DOR and the State Tax Appeal Board. It stated any action regarding assessment and classification of property could be appealed. This bill clarifies that only final decisions of DOR can be appealed to STAB.

Opponents' Testimony:

Dan Walker, U.S. West, said he has no great problem with the bill. He said his comments are not intended to be either supporting or opposing the bill. He felt this language tightens up the procedures and, as a result, the 30 day notice for appeal may become too restrictive and should be extended to 60 days.

Questions From Committee Members and Responses:

REP. REAM asked about the proposed extension of notice to appeal.

Mr. Woodgerd said the clarifying language should not have any impact on the 30 day time period. The notice would not be issued until after the final decision was made. That procedure remains the same.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 1/12/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN			✓
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER			✓
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER			
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

EXHIBIT 1
DATE 1/12/93
HB 92

Amendments to House Bill No. 92
First Reading Copy
Requested by Representative Tunby

For the House Taxation Committee

Prepared by Eddye McClure
January 11, 1993

1. Title, line 11.
Following: "AGREEMENT;"
Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A HEARING PRIOR TO ENTERING INTO AN ENVIRONMENTAL AGREEMENT THAT REQUIRES A STATE PERMIT OR ENTERING INTO A TAXATION, GAMBLING, OR FISH AND GAME AGREEMENT WITH A TRIBAL GOVERNMENT;"

2. Page 3, line 12.
Following: "(b)"
Insert: "except as provided in subsection (4),"

3. Page 3, line 23.
Following: line 22
Insert: "(4) Prior to entering into an environmental agreement that requires a state permit or entering into a taxation, gambling, or fish and game agreement with a tribal government, a public agency shall:

(a) provide public notice and hold a hearing on the reservation whose government is a party to the proposed agreement;

(b) determine and make available to interested persons findings of fact regarding the impact of the proposed agreement on Montana residents living on or entering the reservation; and

(c) notify tribal representatives and tribal members of the hearing and encourage them to participate in the hearing."

4. Page 11, line 17.
Following: "to"
Strike: "tax"

EXHIBIT 1
DATE 1/13/93
HB 92

Amendments to House Bill No. 92
First Reading Copy

Requested by A.G. Office to Clarify HB009201.AEM
For the Committee on Taxation

Prepared by Lee Heiman
January 12, 1993

1. Title, line 6.
Strike: "CLARIFYING THAT"
Insert: "AMENDING"

2. Title, line 7.
Following: "ACT"
Insert: "; CLARIFYING THAT THE ACT"

3. Title, line 11.
Following: "AGREEMENT;"
Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION, GAMBLING, FISH AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL GOVERNMENT;"

4. Page 3, line 23.
Following: line 22
Insert: "(4) Prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government a public agency shall provide public notice and hold a public meeting on or near the reservation whose government is a party to the proposed agreement for the purpose of receiving comments from and providing information to interested persons with respect to the proposed agreement's effect on the community."

5. Page 11, line 17.
Following: "to"
Strike: "tax"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

COMMITTEE BILL NO. HB-92

DATE 1-12-93 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Doug Abelin 1055 N. Last Chance Gulch Helena	NMOGA	✓	
Del Gage Box 791 Cut Bank	Senate Dist 5	✓	
Bob Lane	Fish, wildlife & Parks		
Deanne Sandholm	Attorney General's		

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on January 27, 1993, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 283
HB 297
HB 312

Executive Action following page

HEARING ON HOUSE BILL 312

Opening Statement by Sponsor:

REP. MIKE FOSTER, HD 32, Townsend, said HB 312 clarifies the beneficial use tax by specifying that the tax applies to the industrial, trade, or other business use of tax exempt property. Apparently, the law taxes the gainful use of tax exempt property. The word "gainful" is ambiguous and might be interpreted to allow the taxation of some beneficial uses of tax exempt property which the Legislature may not wish to tax, e.g., taxation of students who live in university dormitories or government employees who are required to live in government housing for their use of tax exempt property. This bill does not change the current method of taxing beneficial use of tax exempt property.

Proponents' Testimony:

Dave Woodgerd, Chief Counsel, DOR, said the bill does not change the intent of the beneficial use tax. It clears up an ambiguity in the language which allowed for interpretation beyond the original legislative intent.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

REP. FOSTER closed.

EXECUTIVE ACTION ON HOUSE BILL 92

Motion: **REP. TUNBY MOVED HB 92 DO PASS.**

Motion: **REP. FOSTER MOVED THE ADOPTION OF AMENDMENTS AS PER EXHIBIT 5.**

Discussion:

CHAIRMAN GILBERT said he, **REP. TUNBY** and **Pat Smith** had worked out on the proposed amendments and had come to a consensus between the tribes and the sponsor which is contained in the amendments **EXHIBIT 5.** The amendments require a public agency to hold a public meeting prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government. The amendments detail the hearing procedures and notification policies. The state has an obligation to provide hearing opportunities to its citizens on matters that affect the quality of their lives. Tribal and non-tribal members

living on Indian reservations are citizens of Montana and, therefore, the public hearing opportunity must be afforded if the state is party to an agreement with an Indian nation.

REP. ELLIOTT said he did not understand why fish and game and environmental regulation should be included in a taxation bill.

Mr. Heiman said the amendment is within the constitutional requirement that the bill not be changed during the course of passage.

REP. ELLIOTT said that does not answer his concern.

REP. REAM said he shared **REP. ELLIOTT's** concern. The same bill came before the Revenue Oversight Committee (ROC) and the same concerns were voiced at that time. A taxation bill does not seem to be the proper vehicle for gambling, fish and game, and environmental hearing procedures.

CHAIRMAN GILBERT said three more bills could be drafted at a cost of $2500 each or it can be done here and now in one bill. Tribal representatives want to include the other matters and this is an easy way to accomplish it.

REP. HARPER asked if the second amendment relates to taxation and if it is codified in the code chapter re taxation.

Mr. Heiman said the is codified in Title 18 which is state government contracts and agreements.

REP. HARPER said he would prefer to strike the references to gambling, fish and game, and environmental regulations in **amendment 4, EXHIBIT 5.** The amendments would then pertain to the bill.

CHAIRMAN GILBERT said the **Mr. Heiman** has advised the Committee that the amendment, as written, does fall under the scope and title of the bill. He said he did not understand the objections to providing an opportunity for a public hearing process to Montana citizens on Indian reservations.

REP. HARPER said he felt the amendments should be confined to the subject matter of the title.

REP. FELAND said the title refers to taxes, licenses, and permit fees. If the state is trying to expedite agreements with the Indian tribes, these amendments would certainly fit with the title of the bill and aid in the cooperative effort.

Vote: Motion to amend the bill as per **EXHIBIT 5** carried 11 - 9 on a roll call vote.

Motion: **REP. McCAFFREE MOVED THE ADOPTION OF THE AMENDMENTS AS PER EXHIBIT 6.**

Discussion:

REP. McCAFFREE said the special revenue account between the state and the tribes is established in the bill. There is no direction given to the local government for handling the special revenue account funds. The amendments clarify that procedure.

REP. TUNBY asked **Mr. Woodgerd** if DOR is satisfied with the amendments.

Mr. Woodgerd said he had reviewed the amendments and they are appropriate.

Vote: Motion to amend the bill as per **EXHIBIT 6** carried unanimously.

Motion: **REP. MARIAN HANSON MOVED THE ADOPTION OF THE AMENDMENTS AS PER EXHIBIT 7.**

Discussion:

Mr. Heiman said this is a technical amendment that reinserts stricken language on page 8, line 15.

REP. DRISCOLL said the amendment is made to the section on motor fuel taxes.

CHAIRMAN GILBERT said the amendments would require that an agreement would be presented to the Revenue Oversight Committee for review and comment before they are signed. He said many agreements can have some affect on revenue projections for the next biennium and it is important for ROC to be aware of those potential impacts.

Vote: Motion to amend the bill as per **EXHIBIT 7** carried 13 - 7 on a roll call vote.

Discussion:

REP. DRISCOLL expressed concern about the language on page 3, lines 18 and 19, that says if a state agency is a party to an agreement, the director of the agency is the governing body. He said the Governor should be the only person to make an agreement with another nation on behalf of the state. He said the tribes would have to negotiate with a different department head for each agreement. He said it is unclear who really has the power to make the agreements.

CHAIRMAN GILBERT said he agreed with **REP. DRISCOLL**, as did **REP. TUNBY**, but he was surprised to learn from **Mr. Smith** that the tribes preferred to deal with the people they are comfortable with in each of the negotiating areas. He said **Mr. Smith** understands that the director of the pertinent department will

have to submit the agreement to the Governor for his approval and to the Attorney General for legal review before it is signed.

Motion/Vote:

REP. TUNBY MOVED HB 92 DO PASS AS AMENDED. Motion carried 11 - 9 on a roll call vote.

EXECUTIVE ACTION ON HOUSE BILL 186

Motion/Vote: **REP. McCAFFREE MOVED HB 186 DO PASS.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 250

Motion: **REP. REAM MOVED HB 250 DO PASS.**

Motion/ Vote: **REP. REAM MOVED ADOPTION OF AMENDMENTS AS PER EXHIBIT 8.** Motion carried unanimously.

Motion/Vote: **REP. REAM MOVED HB 250 DO PASS AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 254

Motion: **REP. McCAFFREE MOVED HB 254 DO PASS.**

Discussion:

REP. McCAFFREE said the County Treasurers requested the bill due to the increased work load necessitated by filing of motor vehicle liens. The current $4 fee is remitted entirely to the state and there is no remuneration for the Treasurers. He said if they are the ones doing the work they should be paid for it.

Motion/Vote: **REP. DRISCOLL MOVED TO AMEND THE BILL BY INSERTING ON PAGE 5, LINE 19, FOLLOWING "COUNTY TREASURER", THE FOLLOWING LANGUAGE: "BY THE PERSON WANTING THE VEHICLE ENCUMBERED".** He gave **Mr. Heiman** the authority to adjust the language appropriately. Motion to amend carried unanimously.

Motion: **REP. McCAFFREE MOVED HB 254 DO PASS AS AMENDED.**

Discussion:

REP. FELAND said this seems to be another method of circumventing I-105. The County Treasurers need more money so they are simply adding on another fee.

HOUSE STANDING COMMITTEE REPORT

January 27, 1993

Mr. Speaker: We, the committee on Taxation report that House Bill 92 (first reading copy -- white) do pass as amended .

Signed: _____
Bob Gilbert, Chair

And. that such amendments read:

1. Title, line 6.
Strike: "CLARIFYING THAT"
Insert: "AMENDING"

2. Title, line 7.
Following: "ACT"
Insert: "; CLARIFYING THAT THE ACT"

3. Title, line 11.
Following: "AGREEMENT;"
Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION, GAMBLING, FISH AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL GOVERNMENT;"

4. Page 3, line 23.
Following: line 22
Insert: "(4)(a) Prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government, a public agency shall provide public notice and hold a public meeting on the reservation whose government is a party to the proposed agreement for the purpose of receiving comments from and providing written and other information to interested persons with respect to the proposed agreement's effect on the community.

(b) At least 14 days but not more than 30 days prior to the date scheduled for the public meeting, a notice of the proposed agreement and public meeting must be published in a newspaper of general circulation in the county or counties in which the reservation is located.

(c) At the time the notice of the meeting is published, a synopsis of the proposed agreement must be made available to interested persons."

Committee Vote:

5. Page 7, line 8.
Following: "agreement."
Insert: "If a public agency that is a party to an agreement is a local government, the agreement must provide for the disposition of revenue."

6. Page 7, line 19.
Following: "statutory"
Insert: ", public agency ordinance,"

7. Page 7, line 21.
Following: "statutory"
Insert: ", public agency,"

8. Page 8, line 15.
Following: "~~before~~"
Insert: "the agreement must be presented to the revenue oversight committee for review and comment before"

9. Page 11, line 17.
Following: "to"
Strike: "tax"

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 1/27/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		✓
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 1/27/93 BILL NO. 92 NUMBER 1

MOTION: to amend bill as per Ex. #5 by Rep. Foster

NAME	AYE	NO
REP. FOSTER	✓	
REP. HARRINGTON		✓
REP. ANDERSON	✓	
REP. BOHLINGER	✓	
REP. DOLEZAL		✓
REP. DRISCOLL		✓
REP. ELLIOTT		✓
REP. FELAND	✓	
REP. HANSON	✓	
REP. HARPER		✓
REP. HIBBARD	✓	
REP. KELLER	✓	
REP. McCAFFREE		✓
REP. McCARTHY		✓
REP. NELSON	✓	
REP. ORR	✓	
REP. RANEY		✓
REP. REAM		✓
REP. TUNBY	✓	
REP. GILBERT	✓	

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 1/27 BILL NO. 92 NUMBER 2

MOTION: Rep. Hanson to adopt amends as per Exhibit #8

NAME	AYE	NO
REP. FOSTER	X	
REP. HARRINGTON	X	
REP. ANDERSON	X	
REP. BOHLINGER		X
REP. DOLEZAL		X
REP. DRISCOLL		X
REP. ELLIOTT	X	
REP. FELAND	X	
REP. HANSON	X	
REP. HARPER		X
REP. HIBBARD	X	
REP. KELLER	X	
REP. McCAFFREE	X	
REP. McCARTHY	X	
REP. NELSON		X
REP. ORR	X	
REP. RANEY		X
REP. REAM		X
REP. TUNBY	X	
REP. GILBERT	X	

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 1/27/93 BILL NO. 92 NUMBER 3

MOTION: By Rep. Tunby that HB92 Do Pass As Amended

NAME	AYE	NO
REP. FOSTER	✓	
REP. HARRINGTON		✓
REP. ANDERSON	✓	
REP. BOHLINGER	✓	
REP. DOLEZAL		✓
REP. DRISCOLL		✓
REP. ELLIOTT	✓	
REP. FELAND	✓	
REP. HANSON		✓
REP. HARPER		✓
REP. HIBBARD	✓	
REP. KELLER	✓	
REP. McCAFFREE		✓
REP. McCARTHY		✓
REP. NELSON	✓	
REP. ORR	✓	
REP. RANEY		✓
REP. REAM		✓
REP. TUNBY	✓	
REP. GILBERT	✓	

EXHIBIT 5
DATE 1/27/93
HB 92

Amendments to House Bill No. 92
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 26, 1993

1. Title, line 6.
Strike: "CLARIFYING THAT"
Insert: "AMENDING"

2. Title, line 7.
Following: "ACT"
Insert: "; CLARIFYING THAT THE ACT"

3. Title, line 11.
Following: "AGREEMENT;"
Insert: "REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION, GAMBLING, FISH AND GAME, OR ENVIRONMENTAL REGULATION WITH A TRIBAL GOVERNMENT;"

4. Page 3, line 23.
Following: line 22
Insert: "(4)(a) Prior to entering into an agreement on taxation, gambling, fish and game, or environmental regulation with a tribal government, a public agency shall provide public notice and hold a public meeting on the reservation whose government is a party to the proposed agreement for the purpose of receiving comments from and providing written and other information to interested persons with respect to the proposed agreement's effect on the community.

(b) At least 14 days but not more than 30 days prior to the date scheduled for the public meeting, a notice of the proposed agreement and public meeting must be published in a newspaper of general circulation in the county or counties in which the reservation is located.

(c) At the time the notice of the meeting is published, a synopsis of the proposed agreement must be made available to interested persons."

5. Page 11, line 17.
Following: "to"
Strike: "tax"

33

EXHIBIT 6
DATE 1/27/93
HB 92

Amendments to House Bill No. 92
First Reading Copy

Requested by Representative McCaffree
For the House Taxation Committee

Prepared by Eddye McClure
January 16, 1993

1. Page 7, line 8.
Following: "agreement."
Insert: "If a public agency that is a party to an agreement is a local government, the agreement must provide for the disposition of revenue."

2. Page 7, line 19.
Following: "statutory"
Insert: ", public agency ordinance,"

3. Page 7, line 21.
Following: "statutory"
Insert: ", public agency,"

EXHIBIT 7
DATE 1/27/93
HB 92

Amendments to House Bill No. 92
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 13, 1993

1. Page 8, line 15.
Following: "~~before~~"
Insert: "the agreement must be presented to the revenue oversight committee for review and comment before"

CHAIRMAN--MIKE HALLIGAN
NORMAL SCHEDULE==> SITE: RM 413/415 DAYS: M,T,W,T,F TIME: 8:00 A.M.

SECRETARY-BONNIE STARK

--BILL NO--	--REFER DATE--	--HEARING DATE--	--CONSIDERATION DATES--	--COMMITTEE ACTION--	--REREFERRED TO COMM--	--DATE OUT-
HB0008	1/20	2/01	2/1/93	CONCUR		2/01
GILBERT, BOB			CLARIFY TAXATION OF INTERSTATE MOTOR VEHICLE FLEETS			
HB0017	4/01	4/06	4/6/93	CONCUR		4/06
RICE, SHEILA			REVISE PETROLEUM AND LIQUEFIED PETROLEUM DEALER LICENSE FEES			
HB0047	1/20	2/01	2/1/93	CONCUR		2/01
GILBERT, BOB			ASSIGN COAL TAX OVERSIGHT DUTIES TO THE REVENUE OVERSIGHT COMMITTEE			
HB0088	1/20	2/01	2/1/93	CONCUR		2/01
MCCAFFREE, ED			REMOVING MINIMUM BID REQUIREMENT AT SHERIFFS' SALES/DISTRIBUTION OF PROCEEDS			
HB0092	2/20	3/18	4/12/93	CONCUR AS AMENDED		4/12
TUNBY, ROLPH			AMEND STATE-TRIBAL COOPERATIVE AGREEMENTS ACT SPECIFICALLY FOR TAXATION			
HB0103	1/20	2/01	2/4/93	CONCUR		2/04
SWANSON, EMILY			CLARIFY TAX APPEAL ONLY FROM FINAL DEPARTMENT DECISION			
HB0119	1/20	2/04	2/4/93	CONCUR		2/04
HANSON, MARIAN			CLARIFY BEER AND WINE TAX DISTRIBUTION			
HB0149	1/22	2/04	2/4/93	CONCUR AS AMENDED		2/13
LARSON, DON			ALLOW DEPT OF TRANS TO MAKE INTERSTATE AGREEMENTS ON CERTAIN FUEL TAXES			
HB0160	1/28	2/04	2/4/93	CONCUR		2/13
DEBRUYCKER, ROGER			REQUIRE AGENCY OF U.S. GOVERNMENT TO PAY PROPERTY TAXES ON FORECLOSURE			
HB0167	3/09		4/1/92, 4/2/93	CONCUR AS AMENDED		4/03
BRANDEWIE, RAY			GENERALLY REVISE NURSERY LAWS			
HB0181	3/09		2/1/93, 4/2/93	CONCUR AS AMENDED		4/03
BARNETT, JOE			REVISE APICULTURE DEFINITION, REGISTRATION FEES, AND PENALTIES			

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 18, 1993, at 8:00 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 92, HB 350, HB 437
Executive Action: None.

HEARING ON HB 350

Opening Statement by Sponsor:

Rep. Gary Mason, House District #63, presented HB 350, which is a bill to revise the Coal Board Grant and Loan Program. The Grant and Loan Program is funded by the Coal Severance Tax and is administered by the Montana Coal Board. Rep. Mason said this bill will narrow the scope of areas impacted by new coal mines or coal mine closures. If a new coal mine comes in, or a mine is closed, local governments, schools, and other entities eligible, apply for funding to help with the impact from the mine. Rep. Mason presented Exhibit No. 1 to these minutes to further explain

to change the percentage to 5% is not realistic; he opposes Amendment 2. He also opposes the mileage change in Amendment 4. The biggest problem he sees is in Amendment 8, with the change from 20% to 10%. Rep. Mason said the whole intent of HB 350 is to help the areas that are affected by coal mining. They are trying to look down the road and have funds available for the areas that are affected, and by limiting to the impacted areas, all of the associated impacts with an area will be taken care of. Rep. Mason said if the funds are spread out, nobody ends up with enough to take care of their needs.

HEARING ON HB 92

Opening Statement by Sponsor:

Rep. Rolph Tunby, House District #24, presented HB 92, which is a bill requested by the Committee on Indian Affairs and the Revenue Oversight Committee. This bill will amend the State-Tribal Cooperative Agreements Act. One of the benefits of the bill, according to Rep. Tunby, will allow either the State or Tribe to negotiate on who will collect revenue which will eliminate some of the dual taxation presently taking place in some instances. HB 92 will allow any agreement between the State and the Tribes to go into affect immediately instead of waiting for the next Legislature to act on the agreement. The bill will also call for a public meeting on the Reservation before entering into an agreement.

Proponents' Testimony:

Gary Wiens, representing the Montana Electric Cooperative Association (MECA), spoke in favor of HB 92. He said the 26 electric cooperatives the MECA represents includes 7 cooperatives serving Tribal Reservations. These cooperatives have taken the lead in building relations with the Tribes in the state, and they support this bill to seek cooperation in the collection of taxes or fees on the Reservations, and to avoid dual taxation. Mr. Wiens said HB 92 will present a win-win situation for both the Tribes, the State or local government, and the taxpayers. Mr. Wiens said MECA has some concern in interpreting the over-all potential of this legislation. They think HB 92 appears to lack clarity on the issue of enabling the State-Tribal Cooperative Act agreements only in those cases where the tax license or permit fee is identical. MECA is asking for a technical clarification amendment, to have Page 6, Line 5, amended by adding, "on the same goods, services, or property", following "government".

Dave Woodgerd, Legal Counsel, Department of Revenue (DOR), said the DOR supports HB 92. The DOR presently has a pending agreement on alcohol with the Tribes on the Fort Peck Reservation. HB 92 will authorize that agreement, as well as authorize agreements on other taxes the DOR has been involved in with the Tribes. Mr. Woodgerd said the DOR has been working with

the Tribes for many years; however, they have always felt there is a problem because the State-Tribal Cooperative Agreements Act did not specifically authorize the expenditure of funds, or the refund of taxes. This language will allow them to work further on the agreements. The purpose of the amendment presented by Mr. Wiens is not clear to Mr. Woodgerd, and he will review it further.

Deanne Sandholm, Department of Justice (DOJ), spoke as a proponent of HB 92. Ms. Sandholm said the DOJ has been involved in many of the negotiations with the Tribes, and they fully support this bill.

Kathleen Fleury, Coordinator for Indian Affairs, said she was asked by Caleb Shields and Reid Chambers of the Assiniboine-Sioux Tribes of the Fort Peck Indian Reservation to provide testimony in support of HB 92. Ms. Fleury presented Exhibit No. 12 to these minutes.

Bill Daum has ranched on the Crow Reservation for 26 years. He appeared in support of HB 92, as amended, and said the public notice provision allows input and participation by all affected by any State-Tribal agreement. It is important that non-Indians and local government affected by the State-Tribal agreements have the opportunity to participate and should not be left out of consideration in these agreements.

Senator Delwyn Gage, Senate District #5, spoke in support of HB 92. He said this bill is somewhat misunderstood by some people who think this bill will allow the Tribes to tax anything they want to tax. However, the State cannot tell the Tribes what they can do with regard to taxation. The Senator pointed out language beginning on Page 3, Line 16, includes the words, "lawfully imposed". He said some people do not feel that part of the bill is clear enough as to what the State-Tribal agreements can cover.

Opponents' Testimony:

Jim Halverson, Chairman, Roosevelt County Commissioners, spoke in opposition to HB 92 as it relates to the economic issues. Mr. Halverson presented his written testimony as Exhibit No. 10 to these minutes.

Dan Geer, Glacier County Commissioner, appeared in opposition to HB 92, and presented his written testimony as Exhibit No. 11 to these minutes.

Gordon Morris, Director, MACO, spoke in opposition to HB 92 on behalf of Mike Hutchins, Lake County, who is Chairman of the Montana Association of Reservation Counties. Mr. Morris said their stand is similar to Senator Gage's remarks on the need for clarification in the bill. They oppose the State getting into the business of specifically collecting taxes for the Reservation

Tribes. They feel if the State is going to impose a property tax, it should be a tax they would collect, recognizing in many cases the Reservation may encompass more than one county, and the counties should be responsible for collecting taxes on that property that is eligible for property taxes, and likewise, for the Tribal associations.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Towe asked Jim Halverson if he owned property on the Reservation, and if it is taxed by the Tribe at the present time on a property tax basis. Mr. Halverson replied that he has a business, a shop, and a home, and they are not taxed by the Tribe. The Senator asked if he would want to be taxed by the Tribe and the State. Mr. Halverson replied, "No". Senator Towe said HB 92 will go a long ways towards preventing the double taxation, and asked if this is not a good idea. Mr. Halverson said if the Tribes would attempt to levy a tax against his property, he would prefer if he had to go to litigation over that tax, that his battle be against the Tribe and the Federal Government and not have to start with litigation against the county that sends the tax bill, and then the state, and then the Tribe and the Federal Government. Mr. Halverson said if the Tribe is to attempt to levy a tax against his property, the Tribe should be the one that collects it and not the State of Montana.

Senator Towe asked Dave Woodgerd about the House amendments to HB 92. Mr. Woodgerd said the amendments on Page 4 were somewhat contentious in the House. The DOR, and possibly the DOJ, supported the concept that a public hearing should be held. The problem is how informal the public hearing should be.

Senator Towe said the present rules enforced by the BIA regarding any tax measure they would approve requires a public hearing, or informational meeting, in which all parties have an opportunity for input. The Senator asked Mr. Woodgerd if this is this what is contemplated in HB 92. Mr. Woodgerd said his understanding is that that is the situation contemplated, and in addition, there are notice requirements and requirements for a synopsis of the proposed agreement.

Senator Towe asked Mr. Woodgerd if the amendment on Page 8 injects a new element into HB 92. Mr. Woodgerd said this amendment comes at the request of Rep. McCaffree who was concerned that if there is a distribution to the local government as a result of an agreement, there be language in the bill which would cover how the revenue would be disposed of. This is the intent of the language on Page 8.

Senator Towe asked if HB 92 would authorize agreements between the Tribes and local governments now. Mr. Woodgerd said the DOR has always operated under the assumption it was possible to have 3-party agreements between the State, local governments, and the Tribes. A local government could be a public agency.

Senator Towe asked for Mr. Woodgerd's comment on the amendment on Page 9, reinstating the role of the Revenue Oversight Committee. Mr. Woodgerd said that language is in the present law on motor fuels taxes to tribal governments.

Senator Towe asked Gary Wiens to explain his proposed amendment. Mr. Wiens said the intent of his amendment is to clarify the intent of the bill, which is to assure that when the State and the Tribes are sharing in the collection of the tax, that is the same tax they are, in fact, collecting, so the situation may never rise where a State was collecting a dissimilar, or different, tax for the Tribe. Senator Towe asked Mr. Wiens if it would be more appropriate to say these agreements would be limited to the imposition of taxes that are already in existence in the State of Montana. Mr. Wiens said the MT Electric Co-op Association would consider that.

Senator Van Valkenburg asked Mr. Woodgerd about the language on Page 3, Lines 20-23, stating the director of the state agency is the governing body, and if the essence of HB 92 is so the agreements don't have to come before the Legislature. Mr. Woodgerd said the essence of the bill is that the DOR always had some concerns that the State-Tribal Cooperative Agreements Act didn't allow the DOR to actually give money to a Tribe after it had been collected; there was no authorization to appropriate monies to the Tribe. The Senator asked how the governing body, with respect to the State, was presently interpreted in the Act. Mr. Woodgerd said he would guess it would be the Governor, but certainly there are three branches of government. It is his understanding that the State-Tribal Cooperative Agreements Act authorized the executive branch to enter into these agreements, which are overseen by the Legislature.

Senator Van Valkenburg asked why HB 92 is limiting the definition of governing body to only the director of the agencies. Mr. Woodgerd does not know how that language got into the bill. Senator Towe responded to the same question that on Page 9 of HB 92, it is the law of the State of Montana now that the Department of Transportation enters into the agreements regarding the highways, and the same thing applies to the DOR with regard to cigarette taxes; HB 92 returns the law to a parallel situation for other agreements.

Senator Van Valkenburg asked Ms. Fleury if there is any difference between Senator Towe's answer and her knowledge that "state agency" is in essence defined as the governing body of the state agency. Ms. Fleury said the issue of who can sign the agreements was discussed in the House. The sharing agreement for

motor fuel taxes specifically authorizes the Department of Transportation Director to sign those agreements. This makes sense to her in relation to her experience in the negotiation process because the Governor actually is not involved in the negotiations. The person who would understand the agreement and the whole negotiating process would be the director. The water compact agreements, however, require the Governor to sign them. Ms. Fleury said there are many cooperative agreements with various agencies, and if every agreement entered into between the State and the Tribes had to go to the Governor or to the legislative body for signing, she would see it as a barrier in entering into those agreements.

Senator Grosfield asked Mr. Woodgerd about the House amendments on Page 4, and why Fish and Game is listed on Line 3, since this bill is about taxes. Mr. Woodgerd replied that was an area of contention, and the consensus was that it was appropriate to include Fish and Game agreements.

Senator Yellowtail questioned the purpose of Section (3) on Page 6 of HB 92, that sets out conditions which must be satisfied as part of the agreements regarding taxation. The Senator asked if it is Rep. Tunby's intention to require some insurance or bonding requirement, as stated on Line 12, or must administrative expenses be a part of such an agreement, as stated in (d), or must there be an audit report, as stated in (e). Rep. Tunby said he supported the concept of the bill and these are more technical issues that he did not get involved in at all. In answer to the same question, Mr. Woodgerd replied that is what HB 92 is saying.

Senator Yellowtail asked if "if any" could be inserted after "bonding" on Line 12, Page 6. He is concerned about tying the hands of the negotiating parties to a very specific set of limited requirements. Mr. Woodgerd said the DOR would have no objection to that particular change.

Closing by Sponsor:

In response to the question of who signs the agreements, Rep. Tunby said the agreements will go to the Revenue Oversight Committee for review and comments, and then to the Attorney General for approval. It would be a decision of whether to adopt this process, or go back to the process of having the Legislature approve the agreements, or go to some other alternative.

HEARING ON HB 437

Opening Statement by Sponsor:

Rep. Dan Harrington, House District #68, presented HB 437, which deals with low-income property tax relief, and comes at the request of the County Assessor's Association. Rep. Harrington said that a person can no longer use depreciation and considera-tion of loss when applying for low-income property tax relief.

ROLL CALL

SENATE COMMITTEE TAXATION DATE 3-18-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE TAXATION
EXHIBIT NO. 10
DATE 3-18-93
BILL NO. HB 92

SENATE TAXATION
HOUSE BILL #92

First, understand my objection to House Bill #92 is an economic issue and not a racial issue.

Federal Policy is "To Promote Tribal self-sufficiency and economic development to the Indians". To promote Tribal self-sufficiency and economic development means taxation, it does not mean taxation of the Indian though. Tribal taxation means assessment upon Non-Indian owned properties.

The principle argument against Tribal taxation is taxation without representation, double taxation, and discrimination. Not a penny of Tribal tax funds goes to pay for roads, schools, local government or health care.

The Tribes do not have a tax base among their own, so they look to the traditional tax base of the local government.

This bill allows the State of Montana to negotiate itself and some counties into the position of being the tax collector for Tribal government.

Some Tribal governments now assess taxes upon Non-Indian owned properties like pipelines, utility lines, railroads and facilities located on Tribal or Trust lands. Any attempt by the Tribes to levy taxes against Non-Indian deeded property will be met with violent objection and resistance. State and counties need not be caught in the middle of such conflict. The five percent (5%) administration fee will not begin to cover the collection and litigation costs.

This bill also allows the state to negotiate away a share of the taxes now assessed against Non-Indians doing business on Indian lands. In doing so, the state will in fact be subsidizing Tribal

government. The courts have ruled that Tribal government as well as the state has authority to tax those Non-Indians doing business on Indian land. For the state to share or relinquish its right to tax Non-Indian businesses will erode the tax base and further limit the state and counties ability to provide public service that are received and enjoyed by Indian and Non-Indian alike.

Gambling, Fish and Game and water rights agreements have been difficult to negotiate with the Tribal government. House Bill #92 will only elevate the level of bureaucracy, be expensive to administer and add another source of controversy to the already strained relations between the state, local government and Tribal government.

We are all well aware, that Tribal members living on reservations are exempted from paying any state or local taxes and that legislation is necessary for the return to the Tribes, the taxes paid by tribal members through purchase of gasoline, alcohol, and cigarettes. House Bill #92, as it is written, is not that legislation. Over the years congress has declined to protect the right of Non-Indian and Indian Non-Tribal members living in these reservations. Lets not have the State of Montana doing the same thing.

In closing: return to the Tribes or Tribal members those taxes collected through purchase of cigarettes, alcohol and gasoline as well as possible sales tax, but <u>do not</u> permit the state to become the collector of taxes levied by Tribal governments.

I ask that you give this bill a <u>DO NOT PASS.</u>

James R. Halverson
Chairman
ROOSEVELT COUNTY COMMISSIONERS

SENATE TAXATION
EXHIBIT NO. 11
DATE 3-18-93
BILL NO. HB92

REMARKS OF DAN GEER, GLACIER COUNTY COMMISSIONER
SENATE TAXATION COMMITTEE, MARCH 18, 1993

Chairman Halligan and Committee Members:

HB 92 states, "in recognition that both the state and tribal governments must be trusted to act responsibly", leaves me with a feeling of apprehension. The additions and deletions in current law that HB 92 makes, gives me the same feeling as seeing a burglar in front of my house with a crow-bar in his hands, as I am about to leave town. There is nothing I can do until the damage is done. In researching HB 92, the most frequent answer I have been given is, "That will need to be negotiated later." Any bill with so many unknowns and variables can easily create more problems that it solves.

What business does the state have collecting taxes for a sovereign nation? This creates the setting for a tribe to assess taxes that it hasn't in the past because of no means in place to collect them. If the state enters into the business of collecting a tax that has no limits, present business will be driven away, while new business's will stay away.

HB 92 does nothing to eliminate the possibility of double taxation on reservations in the future, unless the intent is to aid in the removal of businesses from the reservation. Currently, on the Blackfeet Reservation, Glacier Electric Cooperative is paying slightly over $29,000.00 a year to the Blackfeet Tribe as a possessory interest tax; the county taxes

on the same property on the Reservation is just over $6,000.00 each year. How would HB 92 benefit either side or Glacier Electric and its members? I have found public meetings held after negotiations between two groups to be of limited value when the affected people are not allowed to participate in negotiations.

If the state needs to refund taxes to tribal members, the legislature should write a bill that specifically addresses those taxes and repayment.

The legislature has no business passing HB 92 allowing the state to collect personal and real property taxes on behalf of a nation sovereign to the state, from tax-paying citizens and businesses who own property on reservations. I urge you to vote NO on HB 92.

LAW OFFICES
SONOSKY, CHAMBERS, SACHSE & ENDRESON
SUITE 1000
1250 EYE STREET, N.W.
WASHINGTON, D.C. 20005
(202) 682-0240
TELECOPIER (202) 682-0249

MARVIN J. SONOSKY
HARRY R. SACHSE
REID PEYTON CHAMBERS
WILLIAM R. PERRY
LLOYD BENTON MILLER
DONALD J. SIMON
DOUGLAS B.L. ENDRESON*
MYRA M. MUNSON**
ANNE D. NOTO
KAY E. MAASSEN GOUWENS**
JAMES K. KAWAHARA***
RICHARD A. POULIN****
MARY J. PAVEL*

OF COUNSEL
TASSIE M.K. HANNA
ROGER W. DUBROCK**

*WISCONSIN BAR
**ALASKA BAR
***CALIFORNIA BAR
****COLORADO BAR
*WASHINOTON BAR

ANCHORAGE OFFICE
SUITE 700
900 WEST FIFTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 258-6377
TELECOPIER (907) 272-8332

LLOYD BENTON MILLER
KAY E. MAASSEN GOUWENS
RICHARD A. POULIN

JUNEAU OFFICE
229 FOURTH STREET
JUNEAU, ALASKA 99801
(907) 586-5880
TELECOPIER (907) 586-5883

MYRA M. MUNSON

March 17, 1993

BY TELECOPIER
TO: MS. KATHY FLEURY
(406) 444-1350

E TAXATION
EXHIBIT NO. 12
DATE 3-18-93
BILL NO. HB 92

Senate Committee on Taxation
State Capitol
Helena, Montana

Re: H.B. 92 (our files 116.38) (125.38)

Gentlepersons:

We serve as general counsel to the Assiniboine and Sioux Tribes of the Fort Peck Reservation. The Tribes support of the concept of H.B. 92, and offer the following comments.

This bill would authorize broader inter-governmental agreements between the State and Indian tribes. This would include tax sharing and administration agreements outside of the motor fuels and cigarette tax areas.

The Fort Peck Tribes during 1992 concluded agreements with the State to share motor fuel taxes and alcoholic beverages taxes, as well as an agreement concerning the enforcement of state cigarette sales taxes to non-Indians on the Fort Peck Reservation.

I will briefly describe these agreements.

Under the gasoline tax agreement, the Tribes will receive 40 percent of all gasoline tax collections (less actual agricultural refunds) on the Reservation.

The 40 percent figure was calculated by taking the 1990 census figures for all residents and tribal members residing on the Reservation.1/ The gasoline tax agreement requires the Tribes to enact a gasoline tax identical to the state tax, and change the tax rate from time to time if state law changes. The parties also agree to a single tax. The State agrees to collect the tribal tax as well as the state tax, and pay over to the Tribes the tax revenues that reflect gasoline purchased on the Reservation by tribal members, less (1) a one percent administrative fee, (2) actual agricultural refunds, and (3) the portion of the motor fuel taxes collected (16 percent) which the State pays to the counties. The agreement requires distribution of tax revenues from the State to the Tribes each calendar quarter.

The State and Tribes reached the same basic agreement to share liquor, wine and beer taxes as on gasoline taxes. Here, too, the Tribes agree to enact tribal liquor, wine and beer taxes identical to the State taxes. The State will collect these and make payments to the Tribes. As with the gasoline tax, 40 percent of all revenues collected will be paid to the Tribes, reflecting a deduction of amounts paid are to the cities and towns and the State's administrative fees.

The cigarette sales tax agreement establishes a total annual Reservation quota of 60,000 cartons of cigarettes to be delivered to all Indian retailers on the Reservation for sale to Indians. This quota can be changed by agreement between the Tribes and State if it proves not to be an accurate estimate of cigarettes purchased by Indians on the Reservation. Under the agreement, each Indian smokeshop on the Reservation is licensed by the Tribes. Each smokeshop provides the Tribes with the amount of cigarettes it sold to Indians in the past year. The Tribes then establish a quota for each smokeshop it licenses. The Tribes can change the allocation between the smokeshops. Each smokeshop can designate any wholesaler or wholesaler to sell it untaxed cigarettes

---

1/ The Bureau of Indian Affairs has reported to the State that persons enrolled in the Tribes comprise 48 percent of the total Reservation population. Since the 16 percent portion of the taxes paid to the counties is excluded, it was agreed that the Tribes would share in 84 percent of all motor fuel taxes collected on the Reservation. (This tribal share is 48 percent of 84 percent or 40.3 percent.) A one percent administrative fee deduction reduces this share to 39.9 percent, which we agreed to round to 40 percent.

at any time through the year, until its quota is exhausted. The overall Reservation quota cannot be changed, however, without the State's agreement.

No other tax free cigarettes are delivered to any Indian smokeshop operator on the Fort Peck Reservation. The Tribes have enacted and are enforcing an ordinance licensing smokeshops, requiring any licensed Indian retailer selling cigarettes on the Reservation to an non-Indian to collect state taxes on those sales, and requiring the retailer to pay the taxes at the time the retailer receives the cigarettes from the distributor. No unlicensed Indian retailer will be allowed to sell tax free cigarettes on the Reservation.

The last Legislature authorized all of these agreements -- except the one on alcoholic beverages, which we understand will be authorized if this bill is enacted. We think it is preferable to enact this bill rather than have each type of tax agreement or the agreements themselves submitted to the Legislature for approval. Therefore, we support the enactment of H.B. 92.

The Fort Peck Tribes have taken the lead in the past ten years in working with State leaders to resolve other controversies -- by compacts concerning water rights and gaming. For several decades, tribes and the State wrangled and litigated about jurisdiction, water rights and taxing authority. Many cases were filed and decided in courts, particularly in the 1960s and 1970s. Even successful lawsuits, however create tensions between the State and tribes.

In recent years, the Assiniboine and Sioux Tribes have tried to resolve these kinds of disputes by negotiations. It was the first tribe, for example, to conclude a water compact with Montana. That compact, which was ratified by the Legislature and Tribal Executive Board in 1985, quantifies the Fort Peck reserved water rights. It also settled litigation between the Tribes and the State, protects certain existing non-Indian uses, provides for the Tribes to market water and establishes a neutral Board to settle any disputes concerning water used by Indians -- which is recognized as within tribal jurisdiction -- and that used by non-Indians under state law and jurisdiction.

The Assiniboine and Sioux Tribes have also concluded a gaming compact with Montana, as well as two amendments to it during this past year. The original gaming compact authorized the Tribes to operate gambling machines

EXHIBIT 12
DATE 3-18-93
HB 92

and simulcast horse racing. The Tribes' main purpose in entering into this initial compact was to protect existing gaming machines already operating on our Reservation: (1) at the casino operated by the Wolf Point Indian Community Organization, (2) in a few Indian businesses, which under the compact must now become management contractors of not more than 20 machines the Tribes will own. The Tribes were not sure what other gaming they might want to permit in the future, so the Tribes agreed with the State to continue to negotiate at least once annually for the next three years to consider additional gaming operations.

The Tribes want to continue to work with State leaders to resolve common problems. Tribes have close interrelationships with the State of Montana, and what benefits tribes usually benefits the State. We are confident this is so with H.B. 92, and the Fort Peck Tribes support the bill. The present legislation follows on the path we have begun by working a common solution to an important problem we share.

Kind personal regards,

Sincerely,

Reid Peyton Chambers

RPC/cmt

DATE 3-18-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: HB 92, 350, 437

Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Hershel Robbins	MVD, Camp and Coaches	350	✓	
JIM HALVERSON	ROOSEVELT COUNTY	HB92		✓
ALLAN B LOWRY	GLACIER COUNTY	HB 92		✓
Don Gear	Glacier County	HB 92		✓
Gary Wiens	MT. Elec. Co-op Assoc.		✓	
Wayne Van Voast	MBMG		✓	
Gordon Morris	MACo/Roosevelt County	HB92		✓
Marvin Miller	MT. Bur of Mines & Geol	HB350	✓	
Keith L. Colbo	MT Assessors Assoc	H. B437	✓	
Bill Daum	Self	HB 92	✓	
Deanne Dandurand	A.Y.	H.B 92	✓	
REP ROBERT CLARK	H.D. 81	HB 350	✓	
Dave McCann	Missoula Cty	HB 350	✓	
David Hunthausen	Powder River Co.	HB350	✓	
Jim Mockler	MT. Coal Council	HB350	✓	
Kathleen Fleury FOR Caleb Shields	ASSINIBOINE-SIOUX TRIBES OF FT. PECK INDIAN RESERVATION	HB92	✓	

Am & Reid Chambers

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on April 12, 1993, at 8:00 a.m.

ROLL CALL

Members Present:
Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SJR 33
Executive Action:	SJR 33, HB 92, HB 616, HB 643, HB 670, HB 688

HEARING ON SJR 33

Opening Statement by Sponsor:

Senator Sue Bartlett, Senate District 23, presented SJR 33 which is a resolution to request that during the interim the Revenue Oversight Committee (ROC) conduct a study of improvement district financing and different methods to secure such financing. Senator Bartlett said since this Committee held a hearing on SB 426, they are familiar with the background and the Court case involved with SIDs and RSIDs. Regardless of what happens to HB 426, Senator Bartlett believes this study should be

held and it is time for the Legislature to take an over-all look at this issue, including checking with other states which have different mechanisms for securing improvement district financing. SB 426 may wind up being the best available answer, but she doesn't feel the state knows that at this point. She would appreciate a do pass recommendation on this bill so a more comprehensive look can be taken during the interim.

Proponents' Testimony:

Gene Huntington, Dain Bosworth, spoke in support of SJR 33. He said when SB 426 was being considered, he talked with the local government groups, Montana Association of Counties (MACO), and the League of Cities and Towns, and found there was a lot of concerns and confusion about the way the SIDs work. He thinks the study would be timely and he supports it.

Opponents' Testimony:

None.

Informational Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

Senator Bartlett offered no further remarks on closing.

EXECUTION ACTION ON SJR 33

DISCUSSION:

Senator Gage pointed out that Page 2, Line 22, needs an "s" added to "it". (sj003301.ajm)

MOTION/VOTE:

Senator Harp moved SJR 33 DO PASS with the technical amendment. The motion CARRIED UNANIMOUSLY on oral vote. (801316SC.San)

EXECUTIVE ACTION ON HB 92

DISCUSSION:

Amendments requested by Senator Yellowtail were distributed with a copy attached to these minutes as Exhibit No. 1.

Senator Yellowtail said this set of amendments are designed to clean up the bill. He explained that amendment number 1 places the public agency in a position where they have to speculate on what is going to be the affect on the community, and thinks that might be incendiary in some cases. Senator Yellowtail explained the remainder of the amendments he proposes. He thinks these amendments will allow genuine negotiations to take place.

MOTION:

Senator Yellowtail moved adoption of the amendments to HB 92. (hb009202.ajm)

DISCUSSION:

Senator Halligan asked if, by striking "or a separate tribal account" from Page 8, Line 3, it would then require that all money be deposited in a state special revenue account by a public agency, and that, no matter what happens under the agreement, even the Tribe's share has to come to the state first and then out again. Senator Yellowtail proposed that it read, on Page 8, beginning on Line 1, following "collected, add "by a public agency". Senator Yellowtail said if the DOR collects the revenue, they should deposit it into a state special revenue account, and disburse it, subject to the terms of the State-Tribal agreement. If the Tribe collects the revenue, the Tribe would propose some accounting mechanism.

Jeff Martin, Legislative Council Staff, said "a public agency" also includes a local government.

Senator Yellowtail proposed amendment Page 8, Line 2 and 3, by striking "a state", and adding "separate", and striking "account", and adding "accounts".

Senator Halligan thinks (h) should be left in the bill, referring to amendment number 6, because that is general contract language.

Senator Yellowtail said amendment number 6 should only strike (f) and (g), not (h).

Senator Gage said the whole thrust of HB 2 is to preclude and eliminate double taxation, and he thinks to take "g" out of HB 92 will weaken the bill. Senator Yellowtail said the present law has nothing to preclude both the State and the Tribe from levying separate duplicative taxes on individuals. He suggested "g" be left in the amendments, and stricken from the bill.

VOTE:

The motion to adopt the amendments CARRIED UNANIMOUSLY on oral vote. (hb009202.ajm)

MOTION/VOTE:

Senator Van Valkenburg moved to amend Page 3, Line 22, following "agreement", strike "the director of the agency" and insert "the Governor or his or her designee". The motion CARRIED UNANIMOUSLY on oral vote.

MOTION/VOTE:

Senator Gage moved HB 92 BE CONCURRED IN AS AMENDED. The motion CARRIED on oral vote with Senator Harp voting "NO". (801330SC.San) Senator Gage will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 616

Amendments to HB 616, dated April 12, 1993, were presented. These amendments were requested by the bill's sponsor, Rep. Jerry Driscoll, and were strongly opposed by Rep. Royal Johnson.

MOTION:

Senator Gage moved for adoption of the amendments requested by the DOR, dated April 5, 1993.

DISCUSSION:

Senator Gage said he recalled these amendments were recommended by the DOR so they would not lose the interest off the earnings and they wouldn't have to transfer the funds until such time as the funds were needed.

Senator Brown asked if those amendments would have the affect of striking the amendments that were placed in HB 616 on the House floor by Rep. Johnson. DOR Director Mick Robinson said that is not the case. That amendment is a response to an audit criticism. The present language requires the DOR to maintain a certain balance in the account, and they have never received sufficient notice as to when the expenditures would flow out of the account. This amendment allows the DOR to respond to the Department of Natural Resources and Conservation (DNRC) in terms of their need for dollars in that account, rather than maintain a certain balance.

Senator Eck said there was no opposition to that amendment during the hearing.

VOTE:

The motion to adopt the amendments dated April 5, 1993, CARRIED UNANIMOUSLY on oral vote.

SENATE STANDING COMMITTEE REPORT

April 12, 1993

MR. PRESIDENT:
We, your committee on Taxation having had under consideration House Bill No. 92 (third reading copy -- blue), respectfully report that House Bill No. 92 be amended as follows and as so amended be concurred in.

Signed: _____
Senator Mike Halligan, Chair

That such amendments read:

1. Title, lines 13 and 14.
Following: "TAXATION" on line 13
Strike: the remainder of line 13 through "REGULATION" on line 14

2. Page 3, lines 22 and 23.
Following: "the" on line 22
Strike: the remainder of line 22 through "agency" on line 23
Insert: "governor or the governor's designee"

3. Page 4, lines 3 and 4.
Following: "TAXATION" on line 3
Strike: the remainder of line 3 through "REGULATION" on line 4

4. Page 4, lines 5 and 6.
Strike: "ON" on line 5 through "GOVERNMENT" on line 6
Insert: "at a location agreed to by the tribal government that"

5. Page 4, lines 9 and 10.
Following: "PROPOSED" on line 9
Strike: the remainder of line 9 through "COMMUNITY" on line 10
Insert: "AGREEMENT"

6. Page 6, line 12.
Following: "bonding"
Insert: ", if any,"

7. Page 6, line 14.
Following: "expenses"
Insert: ", if any,"

8. Page 6, line 21.
Following: ";"
Insert: "and"

9. Page 6, line 22 through page 7, line 4.
Strike: subsections (f) and (g) in their entirety
Renumber: subsequent subsection

Amd. Coord.
Sec. of Senate

Gage
Senator Carrying Bill

801330SC.San

10. Page 7, line 14.
Following: "expenses"
Insert: ", if any,"

11. Page 7, line 17.
Strike: "The administrative"
Insert: "Administrative"

12. Page 7, line 25.
Strike: "the"
Strike: "amount"
Insert: ", if any,"

13. Page 8, line 1.
Strike: "the"
Following: "collected"
Insert: "by a public agency"

14. Page 8, line 2.
Strike: "a state"
Insert: "separate"

15. Page 8, line 3.
Strike: the first "account"
Insert: "accounts"
Strike: "or a separate tribal account"

-END-

ROLL CALL

SENATE COMMITTEE TAXATION DATE 4-12-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

1
4-12-93
HB 92

Amendments to House Bill No. 92
Third Reading Copy

Requested by Senator Yellowtail
For the Committee on Taxation

Prepared by Jeff Martin
April 8, 1993

1. Page 4, lines 9 and 10.
Following: "PROPOSED" on line 9
Strike: the remainder of line 9 through "COMMUNITY" on line 10
Insert: "AGREEMENT"

2. Page 6, line 12.
Following: "bonding"
Insert: ", if any,"

3. Page 6, line 14.
Following: "expenses"
Insert: ", if any,"

4. Page 6, line 16.
Following: ";"
Insert: "and"

5. Page 6, line 21.
Strike: ";"

6. Page 6, line 22 through page 7, line 8.
Strike: subsections (f) through (h) in their entirety
(g)

7. Page 7, line 14.
Following: "expenses"
Insert: ", if any,"

8. Page 7, line 17.
Strike: "The administrative"
Insert: "Administrative"

9. Page 7, line 25.
Strike: "the"
Strike: "amount"
Insert: ", if any,"

10. Page 8, line 1.
Strike: "the"
Following: "collected"
Insert: "by a public agency"

11. Page 8, line 3.
Strike: "or a separate tribal account"

6B

Amendments to House Bill No. 92
Third Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
April 12, 1993

1. Title, lines 13 and 14.
Following: "TAXATION" on line 13
Strike: the remainder of line 13 through "REGULATION" on line 14

2. Page 3, lines 22 and 23.
Following: "the" on line 22
Strike: the remainder of line 22 through "agency" on line 23
Insert: "governor or the governor's designee"

3. Page 4, lines 3 and 4.
Following: "TAXATION" on line 3
Strike: the remainder of line 3 through "REGULATION" on line 4

4. Page 4, lines 5 and 6.
Strike: "ON" on line 5 through "GOVERNMENT" on line 6
Insert: "at a location agreed to by the tribal government that"

5. Page 4, lines 9 and 10.
Following: "PROPOSED" on line 9
Strike: the remainder of line 9 through "COMMUNITY" on line 10
Insert: "AGREEMENT"

6. Page 6, line 12.
Following: "bonding"
Insert: ", if any,"

7. Page 6, line 14.
Following: "expenses"
Insert: ", if any,"

8. Page 6, line 21.
Following: ";"
Insert: "and"

9. Page 6, line 22 through page 7, line 4.
Strike: subsections (f) and (g) in their entirety
Renumber: subsequent subsection

10. Page 7, line 14.
Following: "expenses"
Insert: ", if any,"

11. Page 7, line 17.
Strike: "The administrative"
Insert: "Administrative"

12. Page 7, line 25.

Strike: "the"
Strike: "amount"
Insert: ", if any,"

13. Page 8, line 1.
Strike: "the"
Following: "collected"
Insert: "by a public agency"

14. Page 8, line 2.
Strike: "a state"
Insert: "separate"

15. Page 8, line 3.
Strike: the first "account"
Insert: "accounts"
Strike: "or a separate tribal account"

42

HOUSE BILL NO. 92

INTRODUCED BY TUNBY

BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND

THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CLARIFYING--THAT~~ AMENDING THE STATE-TRIBAL COOPERATIVE AGREEMENTS ACT; CLARIFYING THAT THE ACT INCLUDES AUTHORIZATION TO ASSESS AND COLLECT OR REFUND A TAX OR LICENSE OR PERMIT FEE; ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION UNDER A STATE-TRIBAL TAX AGREEMENT; REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION~~,--GAMBLING,--FISH---AND---GAME,---OR ENVIRONMENTAL-REGULATION~~ WITH A TRIBAL GOVERNMENT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-70-234, 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Legislature finds it necessary to clarify provisions of the State-Tribal Cooperative Agreements Act in order to reduce the delays in implementing taxation agreements entered into between the State of Montana and Montana Indian Tribes; and

WHEREAS, clarifying provisions of the State-Tribal Cooperative Agreements Act will also reduce the need for duplicative language, which results in increased costs associated with publication of the Montana Code Annotated; and

WHEREAS, the Supreme Court, in Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 111 S. Ct. 905 (1991), stated, among alternatives, that the state and a tribe may adopt a "mutually satisfactory regime" for collection of a tax but did not mandate that a state collect the tax; and

WHEREAS, in an effort to promote a government-to-government relationship between the State of Montana and Montana Indian Tribes and in recognition that both the state and tribal governments must be trusted to act responsibly, it is appropriate that the party designated to collect taxes on an Indian reservation pursuant to any agreement be subject to negotiation.

THEREFORE, the Legislature of the State of Montana finds it appropriate to amend the State-Tribal Cooperative Agreements Act to specifically include tax assessment and collection or refund and to establish specific requirements for tax assessment and collection or refund by the state, a public agency, or a Montana Indian Tribe.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** **Purpose.** (1) It is the intent

of the legislature that this part be used to promote cooperation between the state or a public agency and a sovereign tribal government in mutually beneficial activities and services.

(2) It is the goal of the legislature to prevent the possibility of dual taxation by governments while promoting state, local, and tribal economic development.

Section 2. Section 18-11-103, MCA, is amended to read:

"**18-11-103. Authorization to enter agreement -- general contents.** (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to:

(a) perform any administrative service, activity, or undertaking that ~~any--of-the~~ a public ~~agencies~~ agency or a tribal ~~governments~~ government entering into the contract is authorized by law to perform~~,~~; and

(b) assess and collect or refund any tax or license or permit fee lawfully imposed by the state or a public agency and a tribal government and to share or refund the revenue from the assessment and collection.

(2) The agreement ~~shall~~ must be authorized and approved by the governing body of each party to the agreement. If a state agency is a party to an agreement, the ~~director-of-the agency~~ GOVERNOR OR THE GOVERNOR'S DESIGNEE is the governing body.

~~(2)~~(3) The agreement ~~shall~~ must set forth fully the

powers, rights, obligations, and responsibilities of the parties to the agreement.

(4) (A) PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION~~,---GAMBLING,---FISH---AND--GAME,--OR--ENVIRONMENTAL~~ REGULATION WITH A TRIBAL GOVERNMENT, A PUBLIC AGENCY SHALL PROVIDE PUBLIC NOTICE AND HOLD A PUBLIC MEETING ~~ON-THE RESERVATION-WHOSE-GOVERNMENT~~ AT A LOCATION AGREED TO BY THE TRIBAL GOVERNMENT THAT IS A PARTY TO THE PROPOSED AGREEMENT FOR THE PURPOSE OF RECEIVING COMMENTS FROM AND PROVIDING WRITTEN AND OTHER INFORMATION TO INTERESTED PERSONS WITH RESPECT TO THE PROPOSED ~~AGREEMENT'S-EFFECT-ON-THE--COMMUNITY~~ AGREEMENT.

(B) AT LEAST 14 DAYS BUT NOT MORE THAN 30 DAYS PRIOR TO THE DATE SCHEDULED FOR THE PUBLIC MEETING, A NOTICE OF THE PROPOSED AGREEMENT AND PUBLIC MEETING MUST BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE RESERVATION IS LOCATED.

(C) AT THE TIME THE NOTICE OF THE MEETING IS PUBLISHED, A SYNOPSIS OF THE PROPOSED AGREEMENT MUST BE MADE AVAILABLE TO INTERESTED PERSONS."

Section 3. Section 18-11-104, MCA, is amended to read:

"**18-11-104. Detailed contents of agreement.** (1) The agreement authorized by 18-11-103 ~~shall~~ must specify the following:

~~(1)~~(a) its duration;

~~(2)~~(b) the precise organization, composition, and nature of any separate legal entity created ~~thereby~~ by the agreement;

~~(3)~~(c) the purpose of the agreement;

~~(4)~~(d) the manner of financing the agreement and establishing and maintaining a budget ~~therefor~~ for the agreement;

~~(5)~~(e) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon ~~such~~ partial or complete termination;

~~(6)~~(f) provision for administering the agreement, which may include creation of a joint board responsible for ~~such~~ administration;

~~(7)~~(g) the manner of acquiring, holding, and disposing of real and personal property used in the agreement; and

(h) other necessary and proper matters.

~~(8)~~(2) ~~when~~ If an agreement involves law enforcement, it must also include:

(a) the minimum training standards and qualifications of law enforcement personnel;

(b) the respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

(c) the minimum insurance required of both the public

agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement~~;--and~~.

(3) If an agreement involves the assessment and collection or refund of a similar tax or license or permit fee by the state or a public agency and a tribal government, it must also include:

(a) the procedure for determining the amount of revenue to be shared by the state or a public agency and the tribal government;

(b) the administrative procedures for collection of the shared revenue;

(c) the minimum insurance or bonding, IF ANY, required by the state or a public agency or the tribal government;

(d) a statement specifying the administrative expenses, IF ANY, to be deducted pursuant to [section 4] by the collector of the tax or license or permit fee;

(e) a statement that the state or a public agency or the tribal government collecting the tax or license or permit fee is subject to an audit report by a mutually agreed upon auditor of the revenue collected and administrative expenses; AND

~~(f)--a--statement--that-the-state-or-a-public-agency-and the-tribal-government-will-cooperate-to-collect-only-one-tax~~

~~and will share or refund the revenue as specified in the agreement;~~

~~(g) a statement that a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established in the agreement; and~~

~~(h)~~(F) a statement that the parties to the agreement are not forfeiting any legal rights to apply their respective taxes by entering into an agreement, except as specifically set forth in the agreement

~~(9) any other necessary and proper matters.~~"

NEW SECTION. **Section 4.** **Revenue account -- administrative account -- distribution of revenue.** (1) The revenue collected by the state, a public agency, or a tribal government under a state-tribal cooperative agreement and the administrative expenses, IF ANY, deducted under subsection (2) from the total revenue collected must be deposited in separate special revenue accounts.

(2) ~~The administrative~~ ADMINISTRATIVE expenses deducted by the state, a public agency, or a tribal government for collection of revenue may not exceed the actual cost of collecting the revenue on a reservation or 5%, whichever is less. Money from an administrative account may be expended only for the purpose of administering the tax or fee imposed under the state-tribal cooperative agreement or for paying

the costs incurred in terminating the agreement.

(3) Except for the administrative expenses amount, IF ANY, deducted under subsection (2), the revenue collected BY A PUBLIC AGENCY under a state-tribal agreement must be deposited in a state SEPARATE special revenue account ACCOUNTS ~~or a separate tribal account~~ and must be disbursed as provided for in the agreement. IF A PUBLIC AGENCY THAT IS A PARTY TO AN AGREEMENT IS A LOCAL GOVERNMENT, THE AGREEMENT MUST PROVIDE FOR THE DISPOSITION OF REVENUE.

(4) Money deposited in a state administrative expenses account and in a state special revenue account is statutorily appropriated, as provided in 17-7-502, to the department or public agency that is a party to a state-tribal cooperative agreement under 18-11-103, for the purpose of paying administrative expenses or paying to a tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected or refunded pursuant to a state-tribal cooperative agreement, each party must receive its share as provided in the agreement, notwithstanding any contrary state statutory, PUBLIC AGENCY ORDINANCE, or tribal ordinance distribution formula. For distribution of the remainder, the state statutory, PUBLIC AGENCY, or tribal distribution formula must apply as if the amount remaining after each party to the agreement receives its share were the total revenue

collected from the tax or license or permit fee.

Section 5. Section 15-70-234, MCA, is amended to read:

"15-70-234. Cooperative agreement -- ~~allocation---of motor fuels taxes to--tribal-governments. (1)~~ In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters. The department of transportation shall report the status of cooperative agreement negotiations to each meeting of the revenue oversight committee. After negotiations are complete, the ~~agreement--must--be--presented--to--the--revenue---oversight committee--for--review-and-comment-before~~ THE AGREEMENT MUST BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR REVIEW AND COMMENT BEFORE the final agreement ~~is~~ must be submitted to the attorney general for approval pursuant to 18-11-105. ~~The--agreement--must-provide-that-under-conditions-specified in-this-section,-the-state-and-the-tribe-will--cooperate--to collect--only--one--tax-that-is-at-the-same-level-as-the-tax outside-the-boundaries-of-the-reservation-and-will-share-the revenue-as-provided-in--this--section.--The--agreement--must provide--that-the-state-and-the-tribe-are-not-forfeiting-any legal-rights-to-apply-their--respective--taxes--by--entering into--an--agreement,-except-as-specifically-set-forth-in-the agreement.~~

~~(2)--The-agreement-may-provide-that-the-distributor--may not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax but--shall--pay-only-one-tax-to-the-state-in-an-amount-equal to-the-tax-paid-on-gasoline-that-is-not-subject-to-a--tribal tax.~~

~~(3)--The--agreement--may--provide--that--after-deducting administrative-expenses-equal-to-5%-of-the-amount-determined under-subsection-(2)-and-the-amounts-necessary-for--refunds, the--department--of--transportation--shall,--on--a-quarterly basis,--distribute--the--remaining--amount--to--the---tribal government.~~

~~(4)--The--agreement-may-provide-for-the-collection,-use, and-distribution-of-the-tax.~~"

Section 6. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both

of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying,

and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

NEW SECTION. **Section 7.** **Codification instruction.** [Sections 1 and 4] are intended to be codified as an integral part of Title 18, chapter 11, part 1, and the provisions of Title 18, chapter 11, part 1, apply to [sections 1 and 4].

NEW SECTION. **Section 8.** **Effective date -- applicability.** [This act] is effective July 1, 1993, and applies to tax agreements entered into on or after July 1, 1993.

-End-

Conference Committee
on House Bill 92
Report No.1, April 20, 1993

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 92 met and considered:

1. Senate Taxation Committee amendments dated April 12, 1993

and recommend that House Bill 92 (reference copy -- salmon) be amended as follows:

1. Page 4, lines 7 and 8.
Following: "~~GOVERNMENT~~" on line 7
Strike: remainder of line 7 through "THAT" on line 8
Insert: "on the reservation whose government"

2. Page 6, line 23.
Following: "expenses;"
Strike: "AND"

3. Page 7, line 7.
Following: line 6
Insert: "(f) a statement that the state or a public agency and the tribal government will cooperate to collect only one tax and will share or refund the revenue as specified in the agreement;
(g) a statement that a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established in the agreement; and"
Renumber: subsequent subsection

Further, that this Conference Committee report be adopted.

ADOPT

871519CC.Hpf

For the House:

Rep. Tunby, Chair

Rep. Gervais

Rep. Foster

For the Senate:

Sen. Yellowtail, Chair

Sen. Stang

Sen. Gage

C.C.R. #1
HB 92

871519CC.Hpf

HOUSE BILL NO. 92

INTRODUCED BY TUNBY

BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS AND

THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CLARIFYING--THAT~~ AMENDING THE STATE-TRIBAL COOPERATIVE AGREEMENTS ACT; CLARIFYING THAT THE ACT INCLUDES AUTHORIZATION TO ASSESS AND COLLECT OR REFUND A TAX OR LICENSE OR PERMIT FEE; ESTABLISHING REQUIREMENTS FOR TAX ASSESSMENT AND COLLECTION UNDER A STATE-TRIBAL TAX AGREEMENT; REQUIRING A PUBLIC AGENCY TO HOLD A PUBLIC MEETING PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION~~,--GAMBLING,--FISH---AND---GAME,---OR ENVIRONMENTAL-REGULATION~~ WITH A TRIBAL GOVERNMENT; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 15-70-234, 17-7-502, 18-11-103, AND 18-11-104, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, the Legislature finds it necessary to clarify provisions of the State-Tribal Cooperative Agreements Act in order to reduce the delays in implementing taxation agreements entered into between the State of Montana and Montana Indian Tribes; and

WHEREAS, clarifying provisions of the State-Tribal Cooperative Agreements Act will also reduce the need for duplicative language, which results in increased costs associated with publication of the Montana Code Annotated; and

WHEREAS, the Supreme Court, in Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 111 S. Ct. 905 (1991), stated, among alternatives, that the state and a tribe may adopt a "mutually satisfactory regime" for collection of a tax but did not mandate that a state collect the tax; and

WHEREAS, in an effort to promote a government-to-government relationship between the State of Montana and Montana Indian Tribes and in recognition that both the state and tribal governments must be trusted to act responsibly, it is appropriate that the party designated to collect taxes on an Indian reservation pursuant to any agreement be subject to negotiation.

THEREFORE, the Legislature of the State of Montana finds it appropriate to amend the State-Tribal Cooperative Agreements Act to specifically include tax assessment and collection or refund and to establish specific requirements for tax assessment and collection or refund by the state, a public agency, or a Montana Indian Tribe.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** **Purpose.** (1) It is the intent

REFERENCE BILL: Includes Conference Committee report

HB 0092/04

of the legislature that this part be used to promote cooperation between the state or a public agency and a sovereign tribal government in mutually beneficial activities and services.

(2) It is the goal of the legislature to prevent the possibility of dual taxation by governments while promoting state, local, and tribal economic development.

Section 2. Section 18-11-103, MCA, is amended to read:

"**18-11-103. Authorization to enter agreement -- general contents.** (1) Any one or more public agencies may enter into an agreement with any one or more tribal governments to:

(a) perform any administrative service, activity, or undertaking that ~~any--of-the~~ a public ~~agencies~~ agency or a tribal ~~governments~~ government entering into the contract is authorized by law to perform~~;~~ ; and

(b) assess and collect or refund any tax or license or permit fee lawfully imposed by the state or a public agency and a tribal government and to share or refund the revenue from the assessment and collection.

(2) The agreement ~~shall~~ must be authorized and approved by the governing body of each party to the agreement. If a state agency is a party to an agreement, the ~~director-of-the agency~~ GOVERNOR OR THE GOVERNOR'S DESIGNEE is the governing body.

~~(2)~~(3) The agreement ~~shall~~ must set forth fully the

powers, rights, obligations, and responsibilities of the parties to the agreement.

(4) (A) PRIOR TO ENTERING INTO AN AGREEMENT ON TAXATION~~,---GAMBLING,---FISH---AND--GAME,--OR--ENVIRONMENTAL REGULATION~~ WITH A TRIBAL GOVERNMENT, A PUBLIC AGENCY SHALL PROVIDE PUBLIC NOTICE AND HOLD A PUBLIC MEETING ~~ON-THE RESERVATION-WHOSE-GOVERNMENT AT-A-LOCATION-AGREED-TO-BY--THE TRIBAL--GOVERNMENT--THAT~~ ON THE RESERVATION WHOSE GOVERNMENT IS A PARTY TO THE PROPOSED AGREEMENT FOR THE PURPOSE OF RECEIVING COMMENTS FROM AND PROVIDING WRITTEN AND OTHER INFORMATION TO INTERESTED PERSONS WITH RESPECT TO THE PROPOSED ~~AGREEMENT'S-APPEOT-ON-THE-COMMUNITY~~ AGREEMENT.

(B) AT LEAST 14 DAYS BUT NOT MORE THAN 30 DAYS PRIOR TO THE DATE SCHEDULED FOR THE PUBLIC MEETING, A NOTICE OF THE PROPOSED AGREEMENT AND PUBLIC MEETING MUST BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE RESERVATION IS LOCATED.

(C) AT THE TIME THE NOTICE OF THE MEETING IS PUBLISHED, A SYNOPSIS OF THE PROPOSED AGREEMENT MUST BE MADE AVAILABLE TO INTERESTED PERSONS."

Section 3. Section 18-11-104, MCA, is amended to read:

"**18-11-104. Detailed contents of agreement.** (1) The agreement authorized by 18-11-103 ~~shall~~ must specify the following:

~~(1)~~(a) its duration;

~~(2)~~(b) the precise organization, composition, and nature of any separate legal entity created ~~thereby~~ by the agreement;

~~(3)~~(c) the purpose of the agreement;

~~(4)~~(d) the manner of financing the agreement and establishing and maintaining a budget ~~therefor~~ for the agreement;

~~(5)~~(e) the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon ~~such~~ partial or complete termination;

~~(6)~~(f) provision for administering the agreement, which may include creation of a joint board responsible for ~~such~~ administration;

~~(7)~~(g) the manner of acquiring, holding, and disposing of real and personal property used in the agreement; and

(h) other necessary and proper matters.

~~(8)~~(2) ~~When~~ If an agreement involves law enforcement, it must also include:

(a) the minimum training standards and qualifications of law enforcement personnel;

(b) the respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

(c) the minimum insurance required of both the public

agency and the tribal government; and

(d) the exact chain of command to be followed by law enforcement officers acting under the provisions of an agreement~~;--and~~.

(3) If an agreement involves the assessment and collection or refund of a similar tax or license or permit fee by the state or a public agency and a tribal government, it must also include:

(a) the procedure for determining the amount of revenue to be shared by the state or a public agency and the tribal government;

(b) the administrative procedures for collection of the shared revenue;

(c) the minimum insurance or bonding, IF ANY, required by the state or a public agency or the tribal government;

(d) a statement specifying the administrative expenses, IF ANY, to be deducted pursuant to [section 4] by the collector of the tax or license or permit fee;

(e) a statement that the state or a public agency or the tribal government collecting the tax or license or permit fee is subject to an audit report by a mutually agreed upon auditor of the revenue collected and administrative expenses; ~~AND~~

~~(f)--a--statement--that-the-state-or-a-public-agency-and the-tribal-government-will-cooperate-to-collect-only-one-tax~~

~~and will share or refund the revenue as specified in the agreement;~~

~~(g) a statement that a taxpayer may not be required to pay both the state tax and the tribal tax but shall pay only one tax to one government in an amount established in the agreement; and~~

(F) A STATEMENT THAT THE STATE OR A PUBLIC AGENCY AND THE TRIBAL GOVERNMENT WILL COOPERATE TO COLLECT ONLY ONE TAX AND WILL SHARE OR REFUND THE REVENUE AS SPECIFIED IN THE AGREEMENT;

(G) A STATEMENT THAT A TAXPAYER MAY NOT BE REQUIRED TO PAY BOTH THE STATE TAX AND THE TRIBAL TAX BUT SHALL PAY ONLY ONE TAX TO ONE GOVERNMENT IN AN AMOUNT ESTABLISHED IN THE AGREEMENT; AND

~~(h)~~ (H) a statement that the parties to the agreement are not forfeiting any legal rights to apply their respective taxes by entering into an agreement, except as specifically set forth in the agreement

~~(i) any other necessary and proper matters.~~"

NEW SECTION. **Section 4. Revenue account -- administrative account -- distribution of revenue.** (1) The revenue collected by the state, a public agency, or a tribal government under a state-tribal cooperative agreement and the administrative expenses, IF ANY, deducted under subsection (2) from the total revenue collected must be

deposited in separate special revenue accounts.

(2) ~~The administrative~~ ADMINISTRATIVE expenses deducted by the state, a public agency, or a tribal government for collection of revenue may not exceed the actual cost of collecting the revenue on a reservation or 5%, whichever is less. Money from an administrative account may be expended only for the purpose of administering the tax or fee imposed under the state-tribal cooperative agreement or for paying the costs incurred in terminating the agreement.

(3) Except for the administrative expenses amount, IF ANY, deducted under subsection (2), the revenue collected BY A PUBLIC AGENCY under a state-tribal agreement must be deposited in ~~a state~~ SEPARATE special revenue account ACCOUNTS ~~or a separate tribal account~~ and must be disbursed as provided for in the agreement. IF A PUBLIC AGENCY THAT IS A PARTY TO AN AGREEMENT IS A LOCAL GOVERNMENT, THE AGREEMENT MUST PROVIDE FOR THE DISPOSITION OF REVENUE.

(4) Money deposited in a state administrative expenses account and in a state special revenue account is statutorily appropriated, as provided in 17-7-502, to the department or public agency that is a party to a state-tribal cooperative agreement under 18-11-103, for the purpose of paying administrative expenses or paying to a tribe its portion of the tax or fee.

(5) If a tax or license or permit fee is collected o

refunded pursuant to a state-tribal cooperative agreement, each party must receive its share as provided in the agreement, notwithstanding any contrary state statutory, PUBLIC AGENCY ORDINANCE, or tribal ordinance distribution formula. For distribution of the remainder, the state statutory, PUBLIC AGENCY, or tribal distribution formula must apply as if the amount remaining after each party to the agreement receives its share were the total revenue collected from the tax or license or permit fee.

Section 5. Section 15-70-234, MCA, is amended to read:

"15-70-234. Cooperative agreement -- allocation--of motor fuels taxes to tribal governments. (1) In order to prevent the possibility of dual taxation of motor fuels purchased by Montana citizens and businesses on Indian reservations, the department of transportation and an Indian tribe may enter into a cooperative agreement. The department of transportation may, with the concurrence of the attorney general, include as a member of the negotiating team a representative of the department of justice who has expertise in Indian matters. The department of transportation shall report the status of cooperative agreement negotiations to each meeting of the revenue oversight committee. After negotiations are complete, the agreement---must--be--presented--to--the--revenue--oversight committee-for-review-and-comment-before THE AGREEMENT MUST

BE PRESENTED TO THE REVENUE OVERSIGHT COMMITTEE FOR REVIEW AND COMMENT BEFORE the final agreement is must be submitted to the attorney general for approval pursuant to 18-11-105. The-agreement-must-provide-that-under--conditions--specified in--this--section,-the-state-and-the-tribe-will-cooperate-to collect-only-one-tax-that-is-at-the-same-level--as--the--tax outside-the-boundaries-of-the-reservation-and-will-share-the revenue--as--provided--in--this--section.-The-agreement-must provide-that-the-state-and-the-tribe-are-not-forfeiting--any legal--rights--to--apply--their-respective-taxes-by-entering into-an-agreement,-except-as-specifically-set-forth--in--the agreement.

(2)--The--agreement-may-provide-that-the-distributor-may not-be-required-to-pay-both-the-state-tax-and-the-tribal-tax but-shall-pay-only-one-tax-to-the-state-in-an--amount--equal to--the-tax-paid-on-gasoline-that-is-not-subject-to-a-tribal tax.

(3)--The-agreement--may--provide--that--after--deducting administrative-expenses-equal-to-5%-of-the-amount-determined under--subsection-(2)-and-the-amounts-necessary-for-refunds, the-department--of--transportation--shall,--on--a--quarterly basis,---distribute--the--remaining--amount--to--the--tribal government.

(4)--The-agreement-may-provide-for-the-collection,--use, and-distribution-of-the-tax."

Section 6. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-409; 17-7-304; [section 4]; 19-5-404; 19-6-709; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 19-15-101; 20-4-109; 20-6-406; 20-8-111; 20-9-361; 20-26-1503; 22-3-811; 23-5-136; 23-5-306; 23-5-409;

23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 27-12-206; 37-43-204; 37-51-501; 39-71-2504; 44-12-206; 44-13-102; 53-6-150; 53-24-206; 61-5-121; 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-11-310; 82-11-136; 82-11-161; 85-1-220; 90-3-301; 90-4-215; 90-6-331; 90-7-220; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 18, Ch. 748, L. 1991, the inclusion of 22-3-811 terminates June 30, 1993.)"

NEW SECTION. **Section 7.** Codification instruction. [Sections 1 and 4] are intended to be codified as an integral part of Title 18, chapter 11, part 1, and the provisions of Title 18, chapter 11, part 1, apply to

[sections 1 and 4].

NEW SECTION. **Section 8.** **Effective date -- applicability.** [This act] is effective July 1, 1993, and applies to tax agreements entered into on or after July 1, 1993.

-End-